

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 06-19

AN ORDINANCE ANNEXING 1.81 ACRES, APPROVING TOPPING-KEMP ANNEXATION (ZCA2006-00003), AND WITHDRAWING PROPERTY FROM THE WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT, WASHINGTON COUNTY URBAN ROADS MAINTENANCE DISTRICT AND THE WASHINGTON COUNTY VECTOR CONTROL DISTRICT.

WHEREAS, the City of Tigard is authorized by ORS 222.120(4)(b), ORS 222.125, and ORS 222.170(1) and (2) to annex contiguous territory upon receiving written consent from owners of land, residents and registered voters in the territory proposed to be annexed; and

WHEREAS, the City of Tigard is authorized by ORS 222.120(5) and 222.520 to withdraw properties which currently lie within the boundary of the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District and the Washington County Vector Control District upon completion of the annexation; and

WHEREAS, the Tigard City Council held a public hearing on December 12, 2006, to consider the annexation of four (4) parcels (WCTM 1S136AC, Tax Lots 2200, 2400, 2500 and 4700) of land located between SW 72nd Avenue and SW 75th Avenue along the north side of SW Spruce Street and withdrawal of said property from the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District and the Washington County Vector Control District; and

WHEREAS, pursuant to the Tigard Urban Services Agreement, the annexed properties would remain within the Tualatin Valley Water District,

WHEREAS, pursuant to Metro 3.09, ORS 222.120 and 222.524, notice was given and the City held a public hearing on the issue of the annexation into the City and withdrawal of the annexed property from the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District and the Washington County Vector Control District on December 12, 2006; and

WHEREAS, pursuant to ORS 222.524, the City must declare the withdrawal of annexed properties from the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District, and the Washington County Vector Control District by Ordinance; and

WHEREAS, the Tigard Development Code states that upon annexation, the zone is automatically changed to the City zoning most closely conforming to the County zoning; and

WHEREAS, the annexation has been processed in accordance with the requirements of Metro 3.09 and has been reviewed for compliance with the Tigard Community Development Code and the Comprehensive Plan and the annexation substantially addresses the standards in Metro 3.09 regulating annexations; and

WHEREAS, the City Council has carefully considered the testimony at the public hearing and determined that withdrawal of the annexed properties from the applicable service districts is in the best interest of the City of Tigard.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The Tigard City Council hereby annexes the parcels described in the attached Exhibit "A" and shown in Exhibit "B" and withdraws said parcels from the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District and the Washington County Vector Control District.

SECTION 2: The Tigard City Council adopts the "Staff Report to the City Council" as findings in support of this decision; a copy is attached hereto as Exhibit "E" and incorporated herein by this reference.

SECTION 3: City staff is directed to take all necessary measures to implement the annexation, including certified copies of the Ordinance with Metro for administrative processing, filing with state and county agencies as required by law, and providing notice to utilities.

SECTION 4: Pursuant to ORS 222.120(5), the effective date of the withdrawal of the property from the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District and the Washington County Vector Control District shall be the effective date of this annexation.

SECTION 5: In accordance with ORS 222.180, the annexation shall be effective upon filing with the Secretary of State.

PASSED: By unanimous vote of all Council members present after being read by number and title only, this 12th day of December, 2006.

Carol A. Krager
Carol A. Krager, Deputy City Recorder

APPROVED: By Tigard City Council this 12th day of December, 2006.

Nick Wilson

Approved as to form:

James V. Kern
City Attorney

Nick Wilson, Council President

December 12, 2006
Date

Topping/Kemp Annexation
Case No. ZCA2006-00003
City of Tigard, Oregon

Legal Description

A tract of land in the Northeast $\frac{1}{4}$ of Section 36, Township 1 South, Range 1 West, Willamette Meridian, Washington County, Oregon and being in Lots 5 and 6 of Metzger Acre Tracts, a duly recorded subdivision plat of Washington County and being more particularly described as follows:

Beginning at the southeast corner of said Lot 6, said point being on the northerly right-of-way line of SW Spruce Street, being 30.00 feet from the centerline thereof when measured at right angles and also being on the westerly right-of-way line of SW 72nd Avenue, being 30.00 feet from the centerline when measured at right angles; thence along said northerly right-of-way line of said SW Spruce Street, North $89^{\circ}49'53''$ West, 380.60 feet to the southwest corner of said Lot 5; thence leaving said right-of-way line, along the west line of said Lot 5, North $00^{\circ}05'00''$ West, 176.06 feet to the northwest corner of said Lot 5; thence along the north line of said Lots 5 and 6, North $89^{\circ}54'38''$ East, 380.51 feet to the northeast corner of said Lot 6, said point also being on the westerly right-of-way line of said SW 72nd Avenue, being 30.00 feet from the centerline thereof when measured at right angles; thence along said right-of-way line, South $00^{\circ}06'40''$ East, 177.78 feet to the Point of Beginning of this description.

Also including Parcel 3 of Partition Plat 1998-145.

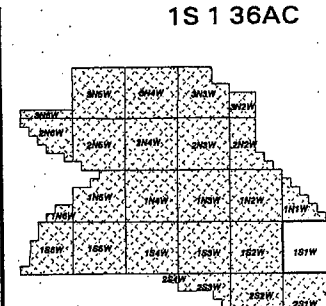
Containing 1.81 acres, more or less.

ANNEXATION CERTIFIED

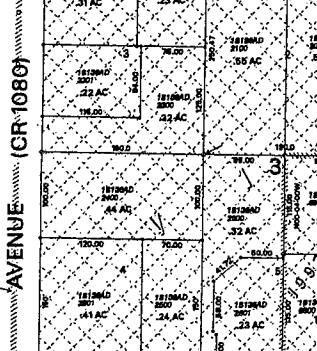
BY JS

NOV 13 2006

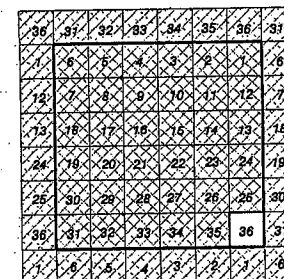
WASHINGTON COUNTY A & T
CARTOGRAPHY



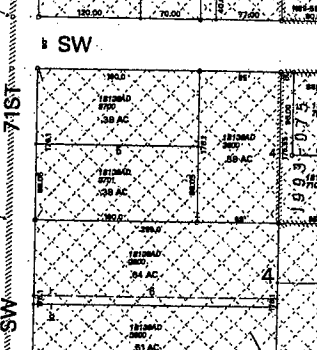
1S 1 36AC



WASHINGTON COUNTY OREGON
SW1/4 NE1/4 SECTION 36 T1S R1W W.M.
SCALE 1" = 100'



FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT
www.co.washington.or.us

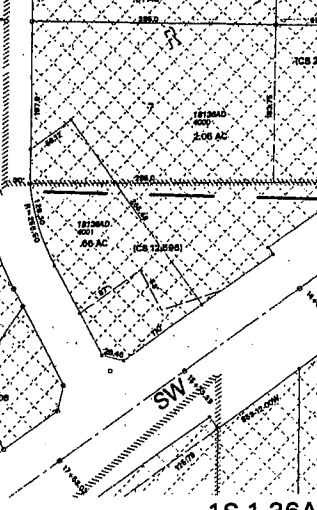


Cancelled Taxlots For: 1S136AC
201,2300,1500,3401,3500,3600,3700,802,
4000,2600,600,2100,


WASHINGTON COUNTY
DEPARTMENT OF
ASSESSMENT & TAXATION

NOV 13 2006

FOR ASSESSMENT PURPOSES.
ONLY. DO NOT RELY ON
FOR OTHER USE



TIGARD
1S 1 36AC



Assessment
CARTOGRAPHY
Taxation

**PLOT DATE: October 30, 2003
FOR ASSESSMENT PURPOSES
ONLY - DO NOT RELY ON
FOR OTHER USE**

Map areas delineated by either gray shading or a cross-hatched pattern are for reference only and may not indicate the most current property boundaries. Please consult the appropriate map for the most current information.

EXHIBIT B

TO THE COUNCIL OF THE CITY OF TIGARD, OREGON:

We, the undersigned owner(s) of the property described below and/or elector(s) residing at the referenced location(s), hereby petition for, and give consent to, Annexation of said property to the City of Tigard. We understand that the City will review this request in accordance with ORS Chapter 222 and applicable regional and local policies prior to approving or denying the request for Annexation.


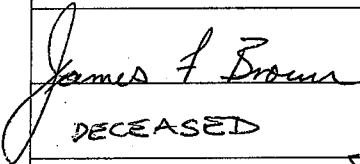

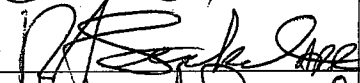
LEGEND:

PO - Property Owner

RV - Registered Voter

OV - Property Owner & Registered Voter

Page 1 of 1

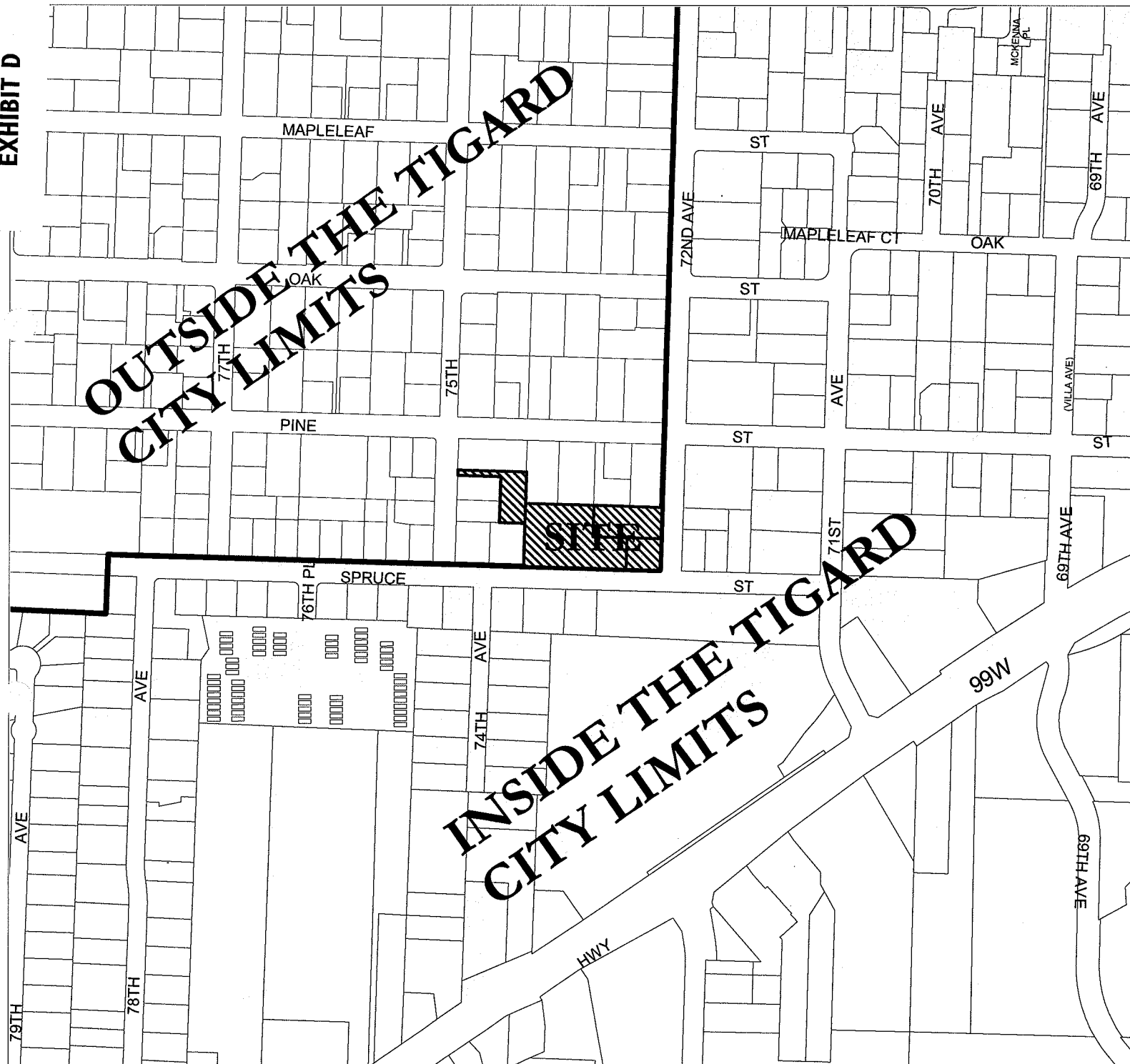
SIGNATURE	PRINTED NAME	I AM A			ADDRESS	PROPERTY DESCRIPTION				DATE
		PO	RV	OV		Township/ Section	Map Number	Tax Lot Number	Precint Number	
	Richard Topping	PO			19765 Derby Street West Linn, OR 97068	1S1	36AC	2200	399	9/19/06
						1S1	36AC	2400	399	
						1S1	36AC	2500	399	
	Katie Kemp	PO			19765 Derby Street West Linn, OR 97068	1S1	36AC	2200	399	9/19/06
						1S1	36AC	2400	399	
						1S1	36AC	2500	399	
 DECEASED	James F. Brown		RV		7303 Spruce Street, #A Portland, OR 97223	1S1	36AC	2200	399	9/19/06
	Robert Allen Halverson		RV		7303 Spruce Street, #B Portland, OR 97223	1S1	36AC	2200	399	
	Nancy L. Naish		RV		10705 SW 72nd Ave. Portland, OR 97223	1S1	36AC	2500	399	9/19/06
	Jason Jarvel Cox		RV		10735 SW 72nd Ave. Portland, OR 97223	1S1	36AC	2400	399	9-12-06
	Raymond Arthur Senkel		RV		10735 SW 72nd Ave. Portland, OR 97223	1S1	36AC	2400	399	9/19/06
	Julie Mae Senkel		RV		10735 SW 72nd Ave. Portland, OR 97223	1S1	36AC	2400	399	
										10 Sep 06

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OV - Property Owner & Registered Voter

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CITY of TIGARD

GEOGRAPHIC INFORMATION SYSTEM

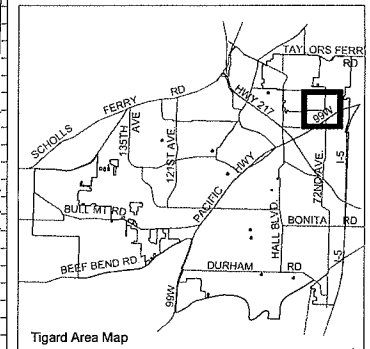
VICINITY MAP

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ZCA2006-00003

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TOPPING/KEMP ANNEXATION



0 100 200 300 400 500 Feet

1"= 383 feet



Information on this map is for general location only and should be verified with the Development Services Division.
 13125 SW Hall Blvd
 Tigard, OR 97223
 (503) 639-4171
<http://www.ci.tigard.or.us>

Agenda Item: _____

Hearing Date: December 12, 2006 Time: 7:30 PM

**STAFF REPORT TO THE
CITY COUNCIL
FOR THE CITY OF TIGARD, OREGON**



120 DAYS = N/A

SECTION I. APPLICATION SUMMARY

FILE NAME: TOPPING-KEMP ANNEXATION
CASE NOS: Zone Change Annexation (ZCA) ZCA2006-00003

ORIGINAL APPLICANT: Westlake Consultants
 Attn: Lee Leighton
 15115 SW Sequoia Pkwy, Ste 150
 Tigard, OR 97224

OWNERS: Richard Topping and Katie Kemp
 19765 Derby Street
 West Linn, OR 97068

REGISTERED VOTER: James F. Brown
 7303 SW Spruce Street, #A
 Portland, OR 97223

REGISTERED VOTER: Nancy L. Naish
 10705 SW 72nd Avenue
 Portland, OR 97223

REGISTERED VOTERS: Raymond Arthur and Julie Mae Senkel
 10735 SW 72nd Avenue
 Portland, OR 97223

REGISTERED VOTER: Jason Jarvel Cox
 10735 SW 72nd Avenue
 Portland, OR 97223

ADDITIONAL APPLICANT/OWNER/REGISTERED VOTER: Christina Hanson
 10670 SW 75th Avenue
 Portland, OR 97223

ADDITIONAL APPLICANT/OWNER: Charles Hanson
 10670 SW 75th Avenue
 Portland, OR 97223

PROPOSAL: Annexation of four parcels total containing 1.81 acres to the City of Tigard. Property owners Richard Topping and Katie Kemp request annexation of three parcels, with plans to build a pre-school on one parcel. The City invited owners of six adjacent properties to join the annexation. Charles and Christina Hanson accepted the invitation and requested annexation of one parcel. All property owners and living residents have consented to the annexation. Three parcels are zoned OC and one parcel is zoned R-5 in the Metzger area of unincorporated Washington County. Because of time constraints, the applicant requests that the annexation be adopted with an emergency clause to facilitate the site development review for the proposed pre-school.

LOCATION: SW Spruce Street between SW 72nd Avenue and SW 75th Avenue; 7303 SW Spruce Street, 10735 SW 72nd Avenue, 10705 SW 72nd Avenue, 10670 SW 75th Avenue; WCTM 1S136AC, Tax Lots 2200, 2400, 2500 and 4700.

**CURRENT
ZONE:**

Office Commercial District (OC). The intent of this District is to encourage office complex development of institutional, professional, medical/dental, governmental and other office business uses. The purpose is to accommodate the increasing office needs in complexes ranging in size from small to large-scale development. Office uses are the primary use of this District. To serve the employees of the office complex, some accessory commercial and high density residential uses may be permitted through the Planned Development process.

And

R-5 District (Residential 5 units per acre). The R-5 District is intended to implement the policies of the Comprehensive Plan for areas designated for residential development at no more than five (5) units per acre and no less than four (4) units per acre, except as specified otherwise by Section 300-2 or Section 302-6. The primary purpose is to protect existing neighborhoods developed at five (5) units per acre or less. Infill development on all parcels two (2) acres or less may occur only through application of the infill policy (Section 430-72).

**EQUIVALENT
CITY ZONE:**

C-P: Professional/Administrative Commercial District. The C-P zoning district is designed to accommodate civic and business/professional services and compatible support services, e.g., convenience retail and personal services, restaurants, in close proximity to residential areas and major transportation facilities. Within the Tigard Triangle and Bull Mountain Road District, residential uses at a minimum density of 32 units/net acre, i.e., equivalent to the R-40 zoning district, are permitted in conjunction with a commercial development. Heliports, medical centers, religious institutions and utilities are permitted conditionally. Developments in the C-P zoning district are intended to serve as a buffer between residential areas and more-intensive commercial and industrial areas.

And

R-4.5: Low-Density Residential District. The R-4.5 zoning district is designed to accommodate detached single-family homes with or without accessory residential units at a minimum lot size of 7,500 square feet. Duplexes and attached single-family units are permitted conditionally. Some civic and institutional uses are also permitted conditionally.

**APPLICABLE
REVIEW
CRITERIA:**

ORS Chapter 222, Metro Code Chapter 3.09, Comprehensive Plan Policies 2 and 10, Community Development Code Chapters 18.320 and 18.390.

SECTION II. STAFF RECOMMENDATION

Staff recommends that the Council find that the proposed annexation (ZCA2006-00003) meets all the approval criteria as identified in ORS Chapter 222, Metro Code Chapter 3.09, Comprehensive Plan Policies 2 and 10, Community Development Code Chapters 18.320 and 18.390. Therefore, staff recommends APPROVAL of ZCA2006-00003 by adoption of the attached ordinance.

SECTION III. BACKGROUND INFORMATION

Site Information and History:

This annexation request includes four (4) parcels in Metzger, located in the area of SW Spruce Street between SW 72nd Avenue and SW 75th Avenue. No right-of-way is included with the request because SW Spruce Street and SW 72nd Avenue are already within the City of Tigard boundaries. One parcel has frontage on SW Spruce Street, two parcels have frontage on SW 72nd Avenue and one parcel is a flag lot with access to SW 75th Avenue. The proposed territory is located within the City of Tigard's Area of Interest and Urban Service Area, which are subject to the policies of the *Urban Planning Area Agreement (2004)* and *Urban Services Agreement (2006)*.

All property within the proposed annexation territory is privately owned. Two owners jointly own three parcels and two owners jointly own one parcel. All other petitioners are residents who do not own land in the proposed territory. Six of the nine petitioners are registered voters in the proposed territory, including one owner. Three petitioners are owners of land, but not registered voters in the proposed territory. All property owners of land and registered voters in the proposed territory have consented to the annexation.

The annexation request was initiated by two property owners (Richard Topping and Katie Kemp) and 5 residents/registered voters, requesting annexation of three parcels (Tax Lots 2200, 2400 and 2500). The City invited property owners of six adjacent parcels to join the annexation. Two owners accepted the annexation (Charles and Christina Hanson), requesting annexation of one parcel, Tax Lot 4700. One owner is a registered voter in the proposed territory.

The annexation was initially requested to facilitate the development of a pre-school. The pre-school is proposed for one parcel, Tax Lot 2200, and will undergo a Site Development Review, if the annexation is approved. Because of time constraints, the applicant, Westlake Consultants, requests that an emergency clause be adopted if the annexation is approved. The emergency clause would allow the annexation to be effective immediately upon passage of the ordinance rather than 30 days after. The applicant had initially coordinated with Washington County for a County review of the proposed pre-school site, but discovered about 7 months into the design process that annexation to the City was required for a sewer connection (see letter in the land use file by Lee Leighton, dated October 31, 2006). If approved, the applicant requests an emergency clause to facilitate the Site Development Review and timely construction of the pre-school. The existing single-family homes will remain on the other three parcels.

SECTION IV. APPLICABLE REVIEW CRITERIA, FINDINGS AND CONCLUSIONS

State: ORS Chapter 222

Regional: Metro Code Chapter 3.09

City: Comprehensive Plan Policies 2 and 10, Community Development Code Chapters 18.320 and 18.390.

A. CITY OF TIGARD COMMUNITY DEVELOPMENT CODE (TITLE 18)

Staff has determined that the proposal is consistent with the relevant portions of the Community Development Code based on the following findings:

1. Chapter 18.320.020: Approval Process and Standards.

B. Approval Criteria. The decision to approve, approve with modification, or deny an application to annex property to the City shall be based on the following criteria:

1. All services and facilities are available to the area and have sufficient capacity to provide service for the proposed annexation area; and

The City of Tigard Comprehensive Plan's Urbanization Chapter (Policy 10.1.1) defines services as water, sewer, drainage, streets, police, and fire protection. Each service is addressed below.

Policy 10.1.1 further defines capacity as "adequate capacity, or such services to be made available," to serve the parcel "if developed to the most intense use allowed," and "will not significantly reduce the level of services available to developed and undeveloped land in the City of Tigard."

Water – Tualatin Valley Water District (TVWD). The subject site is in the Tualatin Valley Water District, which currently serves all tax lots. The applicant has provided a service availability statement signed by Gary Pippin, Manager of Engineering Services, stating that TVWD's service level is adequate to serve Tax Lots 2200, 2400 and 2500. All tax lots, including Tax Lot 4700, will continue to be served by TVWD, as required in Exhibit G of the *Tigard Urban Services Agreement*.

Sewer – Clean Water Services/City of Tigard. The proposed territory has access to sanitary sewer lines along the frontages of SW 72nd Avenue and SW Spruce Street. Connection points along these frontages will allow for sewer line hookup for each of these three parcels. The applicant has provided two sanitary sewer facility plan maps confirming the location of these sewer connections (see Exhibit 7 of the application package in the case file).

Drainage – Clean Water Services/City of Tigard. The proposed territory has access to the City drainage line with catch basins in SW Spruce Street directly across the street. The appropriate water drainage system will be installed in compliance with Clean Water Services and City of Tigard design standards. The applicant has provided two drainage facility plan maps confirming the location of this drainage line (see Exhibit 8 of the application package in the case file).

Streets – City of Tigard Capital Construction & Transportation Division. The applicant indicates that the proposed territory is located within an existing network of local streets that will provide adequate access to and from the subject site, as well as connectivity within the general neighborhood. Those streets include SW Spruce Street, SW 72nd Avenue, SW 74th Avenue, SW 75th Avenue, SW Pine Street and SW Oak Street. The subject property abuts SW Spruce Street and SW 72nd Avenue, both of which are within the City. In addition, the site is within a quarter mile of Tri-met bus lines on SW Pacific Highway and will be adequately served by public transportation.

Police – City of Tigard Police Department. An email from Jim Wolf, Public Information Officer of the Tigard Police Department confirms that the proposed project would not have a serious impact on police services. In addition, Wolf states, "Understanding that the location is presently outside the city limits; the annexation would not appear to lend any confusion to police responding to service calls in that area."

Fire – Tualatin Valley Fire and Rescue (TVF&R). Concerning Tax Lots 2200, 2400 and 2500, the applicant has provided a statement of service availability signed by Jerry Renfro stating that it has "personnel and equipment in the area that can respond to an emergency incident and implement such actions as may be necessary for fire and/or rescue operations." All properties within the proposed annexation territory are currently served by TVF&R and will continue to be served by TVF&R upon annexation.

Based upon this review, staff finds that all public services (as defined by the Comprehensive Plan) are available to the proposed annexation territory and all public services have sufficient capacity to provide service to the proposed annexation territory.

2. The applicable Comprehensive Plan policies and implementing ordinance provisions have been satisfied.

Three Comprehensive Plan policies apply to the proposed annexation: 2.1.1, 10.1.1., and 10.1.2. Staff has determined that the proposal has satisfied the applicable Comprehensive Plan policies based on the following findings:

Policy 2.1.1: Citizen Involvement. The City shall maintain an ongoing citizen involvement program and shall assure that citizens will be provided an opportunity to be involved in all phases of the planning process.

The City maintains an ongoing citizen involvement program. To assure citizens will be provided an opportunity to be involved in all phases of the planning process, the City provides notice for Type IV land-use applications. The City posted, mailed and published notice of the public hearing as follows. The City posted the hearing notice at four public places on October 27, 2006: Tigard Library, Tigard City Hall, Tigard Permit Center, and in the vicinity of the proposed territory on Spruce Street. The City published notice of the hearing in *The Tigard Tualatin Sherwood Times* for two successive weeks (November 23, 2006 and November 30, 2006) prior to the December 12, 2006, public hearing. The City also mailed notice to all interested parties and surrounding property owners within 500 feet on November 15, 2006. In addition, the City maintains a list of interested parties organized by geography. Notice was mailed to interested parties in the East area on November 15, 2006, including former members of Citizen Involvement Team East. Staff finds that this policy is met.

Policy 10.1.1: Urbanization. Prior to the annexation of land to the City of Tigard, a) the City shall review each of the following services as to adequate capacity, or such services to be made available, to serve the parcel if developed to the most intense use allowed, and will not significantly reduce the level of services available to developed and undeveloped land within the City of Tigard: 1. Water; 2. Sewer; 3. Drainage; 4. Streets; 5. Police; and 6. Fire Protection.

As addressed under 18.320.020 above, adequate service is available to the proposed annexation territory. Upon annexation, three parcels within the proposed territory will be zoned C-P, a Professional Commercial zone, with a minimum commercial lot size of 6,000 square feet; One parcel will be zoned R-4.5, a low-density residential zone with a minimum lot size of 7,500 square feet. The most intense use of the proposed territory is estimated to be 9 commercial lots and 1 residential lot¹. However, the intended use is for a pre-school on one lot, with the existing single-family homes remaining on the other three lots.

If any of the properties develop, they will be required to connect to public service facilities, such as sewer, storm drainage and water, and provide the necessary street improvements. Based on findings by the applicant and City staff, there is adequate capacity to serve the annexation area (water, sewer, drainage, streets, police, fire protection) if developed to the most intense uses allowed, and it will not significantly reduce the level of services available to developed and undeveloped land within the City of Tigard.

The City of Tigard department of Public Works has reviewed the annexation proposal and has no comments. The Tualatin Valley Water District currently serves the proposed territory and will continue to serve it. The Police Department reviewed the proposal and has not indicated that serving the proposed annexation would reduce the level of police services. The Engineering Department was provided the opportunity to comment on the annexation, but did not comment. Tualatin Valley Fire and Rescue (TVF&R) currently serves the proposed territory and was provided the opportunity to comment, but did not comment. Staff concludes that there is adequate capacity to serve the proposed territory (water, sewer, drainage, streets, police, fire protection) if developed to the most intense use allowed, and will not significantly reduce the level of services available to developed and undeveloped land within the City of Tigard.

b) If required by an adopted capital improvements program ordinance, the applicant shall sign and record with Washington County a nonremonstrance agreement regarding the following: 1. The formation of a local improvement district (L.I.D.) for any of the following services that could be provided through such a district. The extension or improvement of the following: a) Water, b) Sewer, c) Drainage, and d) Streets. 2. The formation of a special district for any of the above services or the inclusion of the property into a special service district for any of the above services.

¹ Using formula for density calculation in Chapter 18.715 of the Development Code.

This criterion does not apply. No capital improvements program requires a nonremonstrance agreement for this area. Some urban services are already available for the proposed annexation territory; others are available nearby and would require connections from the proposed annexation area. However, these public facility requirements may be assigned as part of any development review when an application is submitted.

c) The City shall provide urban services to areas within the Tigard Urban Planning Area or within the Urban Growth Boundary upon annexation.

The proposed territory is not within the Tigard Urban Planning Area; however, it is within the City's Urban Growth Boundary. Upon annexation, urban services will be provided as outlined in the UPAA, TUSA and current City policies. Staff finds that this policy is met.

Policy 10.1.2: Urbanization. Approval of proposed annexations of land by the City shall be based on findings with respect to the following: a) The annexation eliminates an existing "pocket" or "island" of unincorporated territory; or, b) The annexation will not create an irregular boundary that makes it difficult for the police in an emergency situation to determine whether the parcel is within or outside the City; c) The Police Department has commented upon the annexation; d) the land is located within the Tigard Area of Interest and is contiguous to the City boundary; e) The annexation can be accommodated by the services listed in 10.1.1(a).

- a) The proposed annexation territory is not a pocket or island of unincorporated territory itself; however, it can be considered part of a large pocket of unincorporated territory surrounded by City of Tigard boundaries. Therefore, the proposed annexation would help reduce a pocket of unincorporated territory.
- b) The proposed annexation will not create an irregular boundary that will make it difficult for the police to locate a parcel in an emergency situation. Three lots have frontage on City streets. One parcel does not have frontage on a City street, but is located within a defined network of streets adjacent to City boundaries. Jim Wolf, Public Information Office in the Police Department states, "Understanding that the location is presently outside the city limits, the annexation would not appear to lend any confusion to police responding to service calls in that area."
- c) The City of Tigard Police Department has commented and has no objections to the proposed annexation.
- d) The *UPAA (2004)* includes the proposed annexation territory within Tigard's Area of Interest. The proposed annexation territory is contiguous to the City on two sides, where it abuts SW Spruce Street and SW 72nd Avenue.
- e) Lastly, as section 10.1.1.(a) demonstrated, the annexation can be accommodated by the following services: water, sewer, drainage; streets; police; and fire protection.

Items a through e have been met. Therefore, staff finds that the proposed annexation meets Policy 10.1.2.

Policy 10.1.3: Urbanization. Upon annexation of land into the City which carries a Washington County zoning designation, the City of Tigard shall assign the City of Tigard zoning district designation which most closely conforms to the county zoning designation.

Chapter 18.320.020 C of the Community Development Code provides specifics on this conversion.

Three parcels within the proposed annexation territory are zoned OC (Office Commercial District) by Washington County. One parcel within the proposed annexation territory is zoned R-5 (Residential 5 units per acre).

Table 320.1 summarizes the conversion of the County's plan and zoning designations. As this is a Zone Change Annexation (ZCA) application, upon approval and execution of the proposed annexation, three parcels will assume C-P (Professional Commercial) zoning and one parcel will assume R-4.5 (7,500 square foot minimum lot size) zoning, based on Table 18.320.1 of the code (below). The City's Comprehensive Plan designation "Professional Commercial" will apply to three parcels. The Comprehensive Plan designation "Low-Density Residential" will apply to one parcel.

**TABLE 320.1
CONVERSION TABLE FOR COUNTY AND CITY PLAN AND ZONING DESIGNATIONS**

Washington County Land Use Districts/Plan Designation	City of Tigard Zoning	City of Tigard Plan Designation
R-5 Res. 5 units/acre	R-4.5 SFR 7,500 sq. ft.	Low density 1-5 units/acre
R-6 Res. 6 units/acre	R-7 SFR 5,000 sq. ft.	Med. density 6-12 units/acre
R-9 Res. 9 units/acre	R-12 Multi-family 12 units/acre	Med. density 6-12 units/acre
R-12 Res. 12 units/acre	R-12 Multi-family 12 units/acre	Med. density 6-12 units/acre
R-15 Res. 15 units/acre	R-25 Multi-family 25 units/acre	Medium-High density 13-25 units/acre
R-24 Res. 24 units/acre	R-25 Multi-family 25 units/acre	Medium-High density 13-25 units/acre
Office Commercial	C-P Commercial Professional	CP Commercial Professional
NC Neighborhood Commercial	CN Neighborhood Commercial	CN Neighborhood Commercial
CBD Commercial Business District	CBD Commercial Business District	CBD Commercial Business District
GC General Commercial	CG General Commercial	CG General Commercial
IND Industrial	I-L Light Industrial	Light Industrial■

Chapter 18.320.020

C. Assignment of comprehensive plan and zoning designations.

The comprehensive plan designation and the zoning designation placed on the property shall be the City's zoning district which most closely implements the City's or County's comprehensive plan map designation. The assignment of these designations shall occur automatically and concurrently with the annexation. In the case of land which carries County designations, the City shall convert the County's comprehensive plan map and zoning designations to the City designations which are the most similar. A zone change is required if the applicant requests a comprehensive plan map and/or zoning map designation other than the existing designations. (See Chapter 18.380). A request for a zone change can be processed concurrently with an annexation application or after the annexation has been approved.

As the previous section demonstrated, the City of Tigard C-P zoning district is the most similar to Washington County's OC zoning district and the City's R-4.5 zoning district is most similar to the County's R-5 district. Three parcels within the proposed territory are currently zoned OC and, upon annexation, will automatically become C-P in both zoning and comprehensive plan designation. One parcel is zoned R-5 and will automatically become R-4.5 in zoning and Low-density Residential in comprehensive plan designation. This zone conversion will occur concurrently with the annexation process. There have been no requests for zoning other than the zoning most similar to the designated County zones.

City of Tigard Community Development Code

2. Chapter 18.390.060: Type IV Procedure

Annexations are processed by means of a Type IV procedure, as governed by Chapter 18.390 of the Community Development Code (Title 18) using standards of approval contained in 18.390.020(B), which were addressed in the previous section. Chapter 18.390 requires City Council to hold a hearing on an annexation. It also requires the City to provide notice at least 10 days prior to the hearing by mail and to publish newspaper notice; the City mailed notice on November 15, 2006, and published public notice in *The Tigard Tualatin Sherwood Times* for two successive weeks (November 23, 2006, and November 30, 2006,) prior to the December 12, 2006, public hearing.

Additionally, Chapter 18.390.060 sets forth five decision-making considerations for a Type IV decision:

1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197;

The City's Comprehensive Plan has been acknowledged by the Land Conservation and Development Commission to be in compliance with state planning goals. As reviewed above, the annexation proposal meets the existing Comprehensive Plan policies and therefore is in compliance with state planning goals.

2. Any federal or state statutes or regulations found applicable;

ORS 222:

State law (ORS 222.120(4)(b), ORS 222.125, ORS 222.170(1) and (2)) allows for a city to annex contiguous territory when owners of land, residents and registered voters in the proposed annexation territory submit a petition to the legislative body of the city. ORS 222.120 requires the city to hold a public hearing before its legislative body (City Council) and provide public notice to be published once each week for two successive weeks prior to the day of the hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.

All owners of land within the proposed territory, living residents and registered voters have submitted signed petitions for annexation to the City. The proposed annexation territory is contiguous to the City's boundary on two sides, along SW Spruce Street and SW 72nd Avenue.

The City published public notice in *The Tigard Tualatin Sherwood Times* for two successive weeks (November 23, 2006, and November 30, 2006,) prior to the December 12, 2006, public hearing and posted the hearing notice at four public places on October 27, 2006: Tigard Library, Tigard City Hall, Tigard Permit Center, and in the vicinity of the proposed territory on Spruce Street. Staff finds that the provisions of ORS 222 have been met.

3. Any applicable METRO regulations;

Chapter 3.09 of the Metro Code (Local Government Boundary Changes) includes standards to be addressed in annexation decisions, in addition to local and state review standards. Note that the report is available 15 days before the hearing (November 27, 2006, for a December 12, 2006, hearing). Staff has determined that the applicable METRO regulations (Metro Code 3.09.040(b) &(d)) have been met based on the following findings:

Metro 3.09.040 (b)

(b) Not later than 15 days prior to the date set for a change decision, the approving entity shall make available to the public a report that addresses the criteria in subsections (d) and (g) below, and that includes at a minimum the following:

(1) The extent to which urban services presently are available to serve the affected territory including any extra territorial extensions of service;

As addressed previously in this report, urban services are available to the affected territory.

(2) A description of how the proposed boundary change complies with any urban service provider agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties;

As addressed previously in this report, the annexation proposal complies with all applicable provisions of urban service provider agreements, *UPAA (2004)*; and *TUSA (2006)*.

(3) A description of how the proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework and functional plans, regional urban growth goals and objectives, urban planning agreements and similar agreements of the affected entity and of all necessary parties;

As addressed previously in this report, the annexation proposal complies with all applicable policies of the City of Tigard Comprehensive Plan and urban service provider agreements (*UPAA (2004)* and *TUSA (2006)*). The proposed annexation territory is within the Urban Growth Boundary and subject to the Regional Framework Plan and Urban Growth Management Functional Plan provisions. There are no specific applicable standards or criteria for boundary changes in the Regional Framework Plan or the Urban Growth Management Functional Plan. However, the City's Comprehensive Plan and Development Code have been amended to comply with Metro functional plan requirements. By complying with the Development Code and Comprehensive Plan, the annexation is consistent with the Functional Plan and the Regional Framework Plan.

(4) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and

The proposed territory will remain within Washington County but will be required to be withdrawn from the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District and the Washington County Vector Control District upon completion of the annexation. The proposed territory will remain in the Tualatin Valley Water District.

(5) The proposed effective date of the decision.

The public hearing will take place December 12, 2006. The proposed annexation will be presented with a request for an emergency clause so that the annexation may be effective immediately upon passage of the ordinance. If the Council adopts findings to approve ZCA2006-00003, the effective date of the annexation will be December 12, 2006.

Metro Code 3.09.040 (d)

(d) An approving entity's final decision on a boundary change shall include findings and conclusions addressing the following criteria:

1. Consistency with directly applicable provisions in an urban service provider agreement or annexation plan adopted pursuant to ORS 195.065;

As addressed previously in this application, the proposed annexation complies with all applicable provisions of urban service provider agreements (*UPAA (2004)* and the *TUSA (2006)*). The proposed annexation is in the Area of Interest and Urban Service Area, which are subject to the *UPAA* and *TUSA*. The agreements state that the County and City will be supportive of annexations to the City. Therefore, the proposed annexation is consistent with these agreements.

2. Consistency with directly applicable provisions of urban planning or other agreements, other than agreements adopted pursuant to ORS 195.065, between the affected entity and a necessary party;

The *UPAA (2004)* includes the proposed annexation territory. The City has followed all processing and notice requirements in the *UPAA*, providing Washington County with 45-day notice prior to the public hearing. The agreement states that "so that all properties within the Tigard Urban Service Area will be served by the City, the County and City will be supportive of annexations to the City." The annexation proposal is consistent with this agreement.

3. Consistency with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facility plans;

As previously stated in this report, this proposal meets all applicable City of Tigard Comprehensive Plan provisions. This criterion is satisfied.

4. Consistency with specific directly applicable standards or criteria for boundary changes contained in the Regional Framework Plan or any functional plan;

This criterion was addressed under Metro Code 3.09.040(b). By complying with the City of Tigard Community Development Code and Comprehensive Plan, the annexation is consistent with the Functional Plan and the Regional Framework Plan.

5. Whether the proposed change will promote or not interfere with the timely, orderly and economic provisions of public facilities and services;

The proposed annexation will not interfere with the provision of public facilities or services because it is consistent with the terms of the *TUSA (2006)*, which ensures the timely, orderly, and efficient extension of public facilities and urban services; it is contiguous to existing city limits and services; and lastly, urban services are available to the proposed annexation territory and have not been found to significantly reduce existing service levels.

6. The territory lies within the Urban Growth Boundary; and

The proposed territory is within Metro's Urban Growth Boundary.

7. Consistency with other applicable criteria for the boundary change in question under state and local law.

In previous sections, this report reviewed the proposal's consistency with other applicable criteria and found it to be consistent.

(Tigard CDC 19.390.060)

4. Any applicable comprehensive plan policies; and

As demonstrated in previous sections of this report, the proposed annexation is consistent with, and meets, all applicable comprehensive plan policies.

5. Any applicable provisions of the City's implementing ordinances.

There are no specific implementing ordinances that apply to this proposed annexation. The Development Code (Chapter 18 of the City Code) will apply to the proposed territory if or when it develops.

SECTION VII. OTHER STAFF COMMENTS

The City of Tigard Public Works Department reviewed the proposal and did not have comments or objections.

The City of Tigard Police Department has reviewed the proposal and provided the following comments:

"In reviewing the proposed annexation plans, Tigard Police at this time, does not foresee any issues. In addition, it does not appear that the proposed development would have serious impact on police services as we are currently providing. Understanding that the location is presently outside the city limits; the annexation would not appear to lend any confusion to police responding to service calls in that area"

RESPONSE: Comments by the Police Department have been considered in staff's review of this proposal.

The City of Tigard Long-Range Planning Division has reviewed the proposal and asked the following questions:

1. Are day care facilities an outright permitted use within the City's equivalent land use designation? Conditional Use?
2. In the C-P zone, what is the Bull Mountain Road District?
3. County R-5 includes reference to "infill policy." Is this a Metzger Area Plan specific policy or for all County R-5?

RESPONSE:

Concerning Question #1, day care facilities are permitted outright in the City of Tigard's C-P zone, the equivalent of the County OC zone. The applicant will call the day care facility a "pre-school"; however, by definition, it is a day care facility.

Concerning Question #2, the Bull Mountain Road District is a misprint. The code is referring to a zone on Bull Mountain Road which allows for residential uses in conjunction with commercial development.

Concerning Question #3, the residential parcel will assume the equivalent City zoning of R-4.5, in which case only City code provisions will apply. The provisions of the County's infill policy (Section 430-72) are not specific to the Metzger area and will no longer apply.

The City of Tigard Engineering Department was provided the opportunity to comment, but did not comment.

SECTION VIII. AGENCY COMMENTS

Tualatin Valley Fire and Rescue, which currently serves the proposed territory, has been given the opportunity to comment, but did not comment. However, the applicant has submitted a statement of service availability stating that it has "personnel and equipment in the area that can respond to an emergency incident and implement such actions as may be necessary for fire and/or rescue operations."

The Beaverton School District has reviewed the proposal and states, "The proposed territory is outside of the Beaverton School District boundaries and we do not anticipate any impacts to BSD facilities."

SECTION IX. PUBLIC COMMENTS

The City mailed notice surrounding property owners within 500 feet and all interested parties on November 15, 2006. Staff did not receive any written comments.


PREPARED BY: Emily Eng
Assistant Planner

11/27/2006
DATE


REVIEWED BY: Richard Bewersdorff
Planning Manager

11/27/2006
DATE